

## REMARKS

### I. Introduction

Claims 1-44 are currently pending in the present application. Claims 1, 34, 36, 38, 40-41, and 43-44 are independent.

All claims stand rejected under 35 U.S.C. §103(a) for allegedly being unpatentable over U.S. Patent No. 6,324,520 (hereinafter “Walker”) in view of Conlon, Ginger et al., “Press 1 for Profits”, Sales and Marketing Management, September 1998 (hereinafter “Conlon”).

Upon entry of this amendment, which is respectfully requested, new claims 45-60 will be added. No new matter is believed to be introduced by this amendment.

Applicants hereby respectfully request reexamination and reconsideration of the pending claims in light of the amendments and remarks provided herein and in accordance with 37 C.F.R. §1.112.

### II. The Examiner’s Rejections

All pending claims stand rejected under 35 U.S.C. §103(a) for allegedly being unpatentable over Walker in view of Conlon. As the present application is amended herein to claim priority to Walker, Walker no longer qualifies as a proper prior art reference. Also, as Walker is associated with an effective filing date that predates Conlon, Conlon no longer qualifies as a proper prior art reference.

Accordingly, at least for these reasons, Applicants respectfully request that the §103(a) rejections of the pending claims be withdrawn.

### III. New Claims

New claims 45-60 are believed to be patentable over the cited reference at least for the reasons otherwise presented herein. Further, after reviewing the cited reference, Applicants believe that the cited reference fails to teach, suggest, or render obvious at least:

(i) determining, after the receiving of the indication of the customer selection of the beverage product, and by a processing device of the vending machine, an alternate beverage product associated with the selected beverage product (claim 45);

(ii) determining, after the receiving of the indication of the customer selection of the snack product, and by a processing device of the vending machine, an alternate snack product associated with the selected snack product (claim 46);

(iii) determining, after the receiving of the indication of the customer selection of the product, and by the processing device of the vending machine, an alternate product associated with the selected product, wherein the alternate product is selected based on the alternate product being offered for sale for a second amount, the second amount being substantially equivalent to the amount of funds provided by the customer (claim 47);

(iv) providing, to the customer and by the vending machine, in the case that it is determined that the available inventory of the alternate product is greater than a pre-defined threshold, an offer for the alternate product instead of the selected product in exchange for the funds provided by the customer (claim 48);

(v) determining, after the receiving of the indication of the customer selection of the product, and by a processor of the vending machine, an alternate product offer rule associated with the selected product and determining, by the processing device of the vending machine, that the alternate product offer rule is satisfied (claims 49-52);

(vi) determining, after the receiving of the indication of the customer selection of the product, and by a processor of the vending machine, an alternate product offer rule associated with the selected product and determining, by the processing device of the vending machine, that the alternate product offer rule is not satisfied (claim 53);

(vii) receiving, by a touch screen of a vending machine, an indication from a cellular telephone of a customer, of an acceptance of an alternate product offer provided by the vending machine (claim 54);

(viii) determining, after the receiving of the indication of the customer selection of the product, and by a processor of the vending machine, an alternate product that is associated with the lowest demand of all products offered for sale by the vending machine (claim 55);

(ix) *determining, after the receiving of the indication of the customer selection of the product, and by a processor of the vending machine, an alternate product that is associated with the lowest remaining shelf life of all products offered for sale by the vending machine (claim 56);*

(x) *determining, after the receiving of the indication of the customer selection of the product, and by a processor of the vending machine, an alternate product that is associated with a second brand that is different than the first brand (claim 57);*

(xi) *detecting, by a motion detector of a vending machine, the presence of a purchaser (claim 58); or*

(xii) *identifying at least one upsell package in the database which corresponds to the credit amount and the received product identifier (claim 59).*

#### **IV. Conclusion**

At least for the foregoing reasons, it is submitted that all claims are now in condition for allowance, *or in better form for appeal*, and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remain any questions regarding the present application or the cited reference, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Carson C.K. Fincham at telephone number 203-461-7017 or via electronic mail at [cfincham@walkerdigital.com](mailto:cfincham@walkerdigital.com), at the Examiner's convenience.

Respectfully submitted,

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Date

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Carson C.K. Fincham  
Attorney for Applicants  
Registration No. 54,096  
Walker Digital, LLC  
[cfincham@walkerdigital.com](mailto:cfincham@walkerdigital.com)  
203-461-7017 /voice  
203-461-7300 /fax